

FIRST REGULAR SESSION

# SENATE BILL NO. 81

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR LOUDON.

Pre-filed December 1, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal section 288.030, RSMo, relating to employment security definitions, and to enact in lieu thereof one new section relating to the same subject.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 288.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.030, to read as follows:

288.030. 1. As used in this chapter, unless the context clearly requires otherwise:

(1) "Appeals tribunal" means a referee or a body consisting of three referees appointed to conduct hearings and make decisions on appeals from administrative determinations, petitions for reassessment, and claims referred pursuant to subsection 2 of section 288.070;

(2) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

(3) "Benefit year" means the one-year period beginning with the first day of the first week with respect to which an insured worker first files an initial claim for determination of such worker's insured status, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual, providing the individual is then an insured worker, next files such an initial claim after the end of the individual's last preceding benefit year;

(4) "Benefits" means the money payments payable to an insured worker, as provided in this chapter, with respect to such insured worker's unemployment;

(5) "Calendar quarter" means the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth, or December thirty-first;

(6) "Claimant" means an individual who has filed an initial claim for determination of

such individual's status as an insured worker, a notice of unemployment, a certification for waiting week credit, or a claim for benefits;

(7) "Commission" means the labor and industrial relations commission of Missouri;

(8) "Common paymaster" means two or more related corporations in which one of the corporations has been designated to disburse remuneration to concurrently employed individuals of any of the related corporations;

(9) "Contributions" means the money payments to the unemployment compensation fund required by this chapter, exclusive of interest and penalties;

(10) "Decision" means a ruling made by an appeals tribunal or the commission after a hearing;

(11) "Deputy" means a representative of the division designated to make investigations and administrative determinations on claims or matters of employer liability or to perform related work;

(12) "Determination" means any administrative ruling made by the division without a hearing;

(13) "Director" means the administrative head of the division of employment security;

(14) "Division" means the division of employment security which administers this chapter;

(15) "Employing unit" means any individual, organization, partnership, corporation, common paymaster, or other legal entity, including the legal representatives thereof, which has or, subsequent to June 17, 1937, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Each individual engaged to perform or to assist in performing the work of any person in the service of an employing unit shall be deemed to be engaged by such employing unit for all the purposes of this chapter, whether such individual was engaged or paid directly by such employing unit or by such person, provided the employing unit had actual or constructive knowledge of the work;

(16) "Employment office" means a free public employment office operated by this or any other state as a part of a state controlled system of public employment offices including any location designated by the state as being a part of the one-stop career system;

(17) "Equipment" means a motor vehicle, straight truck, tractor, semi-trailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire;

(18) "Fund" means the unemployment compensation fund established by this chapter;

(19) "Governmental entity" means the state, any political subdivision thereof, any instrumentality of any one or more of the foregoing which is wholly owned by this state and one or more other states or political subdivisions and any instrumentality of this state or any political

subdivision thereof and one or more other states or political subdivisions;

(20) "Initial claim" means an application, in a form prescribed by the division, made by an individual for the determination of the individual's status as an insured worker;

(21) "Insured work" means employment in the service of an employer;

(22) As to initial claims filed after December 31, 1990, "insured worker" means a worker who has been paid wages for insured work in the amount of one thousand dollars or more in at least one calendar quarter of such worker's base period and total wages in the worker's base period equal to at least one and one-half times the insured wages in that calendar quarter of the base period in which the worker's insured wages were the highest, or in the alternative, a worker who has been paid wages in at least two calendar quarters of such worker's base period and whose total base period wages are at least one and one-half times the maximum taxable wage base, taxable to any one employer, in accordance with subdivision (1) of section 288.036. For the purposes of this definition, "wages" shall be considered as wage credits with respect to any benefit year, only if such benefit year begins subsequent to the date on which the employing unit by which such wages were paid has become an employer;

(23) "Lessor", in a lease, means the party granting the use of equipment, with or without a driver to another;

(24) "Referee" means a representative of the division designated to serve on an appeals tribunal;

(25) "State" includes, in addition to the states of the United States of America, the District of Columbia, Puerto Rico, the Virgin Islands, and the Dominion of Canada;

(26) (a) An individual shall be deemed "totally unemployed" in any week during which the individual performs no services and with respect to which no wages are payable to such individual, **and shall include an individual who has been suspended from employment pending determination regarding the individual's alleged misconduct or employment status;**

(b) An individual shall be deemed "partially unemployed" in any week of less than full-time work if the wages payable to such individual for such week do not equal or exceed the individual's weekly benefit amount plus twenty dollars;

(c) An individual's "week of unemployment" shall begin the first day of the calendar week in which the individual registers at an employment office except that, if for good cause the individual's registration is delayed, the week of unemployment shall begin the first day of the calendar week in which the individual would have otherwise registered. The requirement of registration may by regulation be postponed or eliminated in respect to claims for partial unemployment or may by regulation be postponed in case of a mass layoff due to a temporary cessation of work;

(27) "Waiting week" means the first week of unemployment for which a claim is allowed

in a benefit year or if no waiting week has occurred in a benefit year in effect on the effective date of a shared work plan, the first week of participation in a shared work unemployment compensation program pursuant to section 288.500.

2. The Missouri average annual wage shall be computed as of June thirtieth of each year, and shall be applicable to the following calendar year. The Missouri average annual wage shall be calculated by dividing the total wages reported as paid for insured work in the preceding calendar year by the average of mid-month employment reported by employers for the same calendar year. The Missouri average weekly wage shall be computed by dividing the Missouri average annual wage as computed in this subsection by fifty-two.

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